

## **REMARKS**

All pending claims, claims 1-3, 12, 14 and 36-45, stand allowed in this reissue application. Claims 12 and 14 have been amended in this application. The formal matters identified by the Examiner in the Ex Parte Quayle Action are addressed below.

### **Amendments to Claims 12 and 14**

Claim 12 has been amended to correct a typographical error.

Claim 14 has been amended to correct antecedent basis errors. Specifically the term “jig” was replaced with “mechanism” and the term “concave” was replaced with “partially hemispherical.”

### **Ownership Interest**

The application stands objected to under 37 CFR 1.172(a) on the basis that “the assignee has not established its ownership interest in the patent for which reissue is being requested.” This objection is traversed because the ownership interest of the current assignee, Warsaw Orthopedic, Inc., is clearly established by the chain of title evidence referenced below. The chain of title from the inventors of the above-referenced application to the above-identified assignee is:

- From: Vincent BRYAN and Alex KUNZLER To: Spinal Technologies Corporation

Recorded on: April 28, 1997; Reel 008591, Frame 0468

Filed in: U.S. Pat. No. 5,674,296. The patent 5,865,846, on which the present reissue application is based is a division of 5,674,296.

- From: Spinal Technologies Corporation To: Spinal Dynamics Corporation

Recorded on: May 2, 1997; Reel 008513, Frame 0981

Filed in: U.S. Pat. No. 5,674,296. The patent 5,865,846, on which the present reissue application is based is a division of 5,674,296.

- From: Spinal Dynamics Corporation To: Medtronic Sofamor Danek, Inc.  
Recorded on: January 29, 2003; Reel 013669, Frame 0543  
Filed in: U.S. Pat. App. No. 09/776,394, the present application.
- From: Medtronic Sofamor Danek, Inc. To: SDGI Holdings, Inc.  
Recorded on: February 2, 2005; Reel 015635, Frame 0232  
Filed in: U.S. Pat. App. No. 09/776,394, the present application.
- From: SDGI Holdings, Inc. To: Warsaw Orthopedic, Inc.  
Recorded on: March 26, 2007; Reel 019064, Frame 0771  
Filed in: U.S. Pat. App. No. 09/776,394, the present application.

Applicants submit that the chain of title is clear and properly recorded and, respectfully, request that the objection based upon 37 CFR 1.172(a) be withdrawn.

### **Claim Markings**

The cancellation of original claims 4-9 has been indicated by brackets in accordance with 37 CFR §1.173(d)(1).

### **Oath/ Declaration**

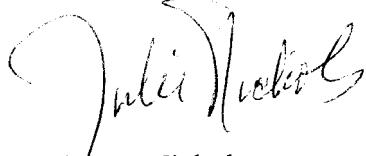
This application stands rejected under 35 U.S.C. §251 as being based upon a defective reissue oath for failing “to contain a statement that all errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 and MPEP §1414.” The Applicants respectfully traverse this rejection because the Reissue Declaration submitted on February 2, 2001 at paragraph 16 (and attached for convenience herewith) appears to comply with the requirements of 37 CFR 1.175 and MPEP §1414 cited by the Examiner. Specifically, the Reissue Declaration states, “[t]his application for Letters Patent addressed the aforementioned defects in the claims. These errors arose through inadvertence, and without any deceptive

intention on our part." Therefore, the Applicants submit that the reissue declaration is compliant and respectfully request that this rejection be withdrawn.

**Conclusion**

The formalities identified in the Ex Parte Quayle Action have been addressed above. Because all of the pending claims in this Application have been indicated as allowed, a notice of allowance is respectfully requested. The Examiner is invited to telephone the undersigned at the below listed telephone number, if needed.

Respectfully submitted,



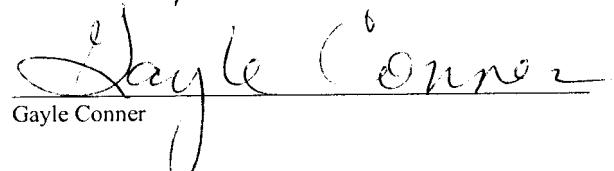
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Gayle Conner